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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,883	06/15/2001	Thomas Leung	11229-6	7618

7590 05/22/2003

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EXAMINER

AMIRI, NAHID

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,883

Applicant(s)

LEUNG, THOMAS

Examiner

Nahid Amiri

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 and 21-26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19- 20 is/are allowed.
- 6) ☒ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 24 and 26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

The inventions are distinct, each from the other because of the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- ✓ I. Claims 14-23, drawn to apparatus of a shear wall panel for a building, classified in class 52, subclass 167.3.
- II. Claims 24-26, drawn to method of making the shear wall for a building, classified in class 52, subclass 741.13.

Inventions I and II are related as apparatus and method. The inventions in this relationship are distinct each from the other because of the following reasons:

Inventions I regarding the apparatus of a shear wall panel for a building and invention II regards to method of making the shear wall for a building. Therefore, these are two separate inventions with different modes of operation, functions (MPEP § 806.05, MPEP § 808.01) are patentably distinct as shown by their mutually exclusive characteristics.

Inventions I and II are related as apparatus and process for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method is used to make the wall panel for storage.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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During a telephone conversation with Mr. Scott Pundsack on May 15, 2003 a provisional election was made to group I claims 14-23 without traverse to prosecute the invention apparatus of a shear wall panel for a building. Affirmation of this election must be made by applicant in replying to this Office action. Claims 24-26 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Response to Amendment

The reply filed on 23 April 2003 is not fully responsive to the prior Office Action because: Since applicant elected species figure 11, and in regard to claims 14-18 and 22-23 drawn to non elected species wherein applicant claiming in regard to **claim 14** the phrase “**at least four continuous diagonal members**”, it means **could be more than four diagonal members wherein figure 11 shows only four diagonal members**, in regard to **claim 17** the shear wall having “**more than four continuous diagonal members**”, In regard to **claim 22** the **vertical members are secured to top or above the shear wall panel**. Therefore, claims 14-18 and 21-23 are no longer consider for further examination.

Allowable Subject Matter

Claims 19-21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art fail to provided the following applicant's claim invention of shear wall having **four continuous diagonal members secured together end to end to form the polygon** and having the **vertical members connected and secured to vertically rod connectors which extending upwardly from a foundation**.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

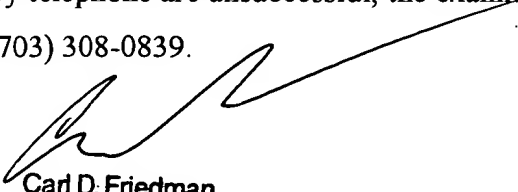
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US patent No. 4,706,436 Mabey et al
US Patent No. 6,539,571 B1 Forsyth
US Patent No. 6,244,016 B1 Wolf
US Patent No. 4,890,437 Quaile
US Patent No. 6,453,634 B1 Pryor
US Patent No. 6,389,767 B1 Lucey et al.
US Patent No. 5,848,866 Black, Jr.
US Patent No. 4,738,071 Ezard
US Patent No. 4,641,480 Mort
US Patent No. 5,505,031 Heydon
US Patent No. 4,561,230 Rionda et al.
US Patent No. 6,389,772 B2 Gleckman et al.
US Patent No. 4,486,115 Rionda et al.
US Patent No. 6,158,184 Timmerman, Sr. et al.
US Patent No. 6,516,583 B1 Houghton

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-872-9326. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na

May 14, 2003


Carl D. Friedman
Supervisory Patent Examiner
Group 3600